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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

EDUARDO IZALDO,

Defendant and Appellant.

G039996

(Super. Ct. No. 02NF0653)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, William L. Evans, Judge. Affirmed.

Alan S. Yockelson, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * *

A jury convicted Eduardo Izaldo of murder, attempted murder and street terrorism. The jury also found true sentence-enhancing allegations that the shooting was committed for the benefit of a street gang (Pen. Code, § 186.22, subd. (a)) and that Izaldo had participated in a crime in which another principal had discharged a firearm, causing

death (Pen. Code, § 122022.53, subds. (d) & (e)(1)), and a special circumstance allegation that he had intentionally murdered the victim to promote the activities of a gang.

On appeal, we reversed the true finding on the special circumstances allegation because the jury instructions pertaining to it were flawed. We reversed for resentencing only. The trial court reimposed the same sentence (five years to life) only this time without regard to the special circumstance allegation.

Izaldo appealed, but the attorney we appointed to represent him could find no basis on which to challenge the new sentence. Neither can we. It appears to have been well within the trial court's broad discretion. Izaldo was informed he had the right to file his own brief with us and inform us of any infirmity in the new proceedings, but no such communication was received by us.

Because the sentence appears unassailable, and because no other issues remained after our resolution of the first appeal, we concur in the conclusion of appellate counsel that the case presents no arguable issue (*Anders v. California* (1967) 386 U.S. 738; *People v. Wende* (1979) 25 Cal.3d 436). The judgment is affirmed.

BEDSWORTH, ACTING P. J.

WE CONCUR:

MOORE, J.

IKOLA, J.